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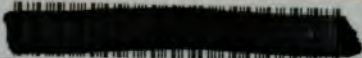
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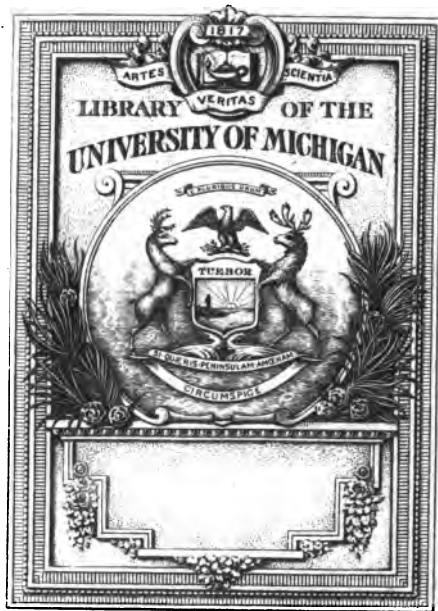
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# Future of the Republic,

ITS DANGERS AND ITS HOPES.

AN ADDRESS,

DELIVERED BEFORE THE LITERARY SOCIETY OF HUDSON COLLEGE,

JULY 2d, 1873.

BY

Hon. JAMES A. <sup>Abraham</sup> GARFIELD.

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## CONTENTS.

	Page.
External Dangers, - - - - -	2
The Dangers of Universal Suffrage, - - - - -	4
Industrial Corporations--the Railway, - - - - -	7
The Dartmouth College Case and the Railway Problem, - - - - -	11

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*Mr. Chairman and Gentlemen of the Literary Societies;*

On many accounts I should have preferred to address you on some theme directly connected with college work. It would have been pleasant to turn away from the busy, noisy world, and spend an hour with you in the peaceful shades of academic life. But you are soon to appear upon a stage where powerful forces, old and new, are acting with unwonted vigor, and producing results worthy of your profoundest study. A thousand fields await and invite you; but be your choice what it may, you will be responsible citizens of your country; and the glory of its successes, and the disgrace of its failures, will in large measure rest upon you. When the last of the three classes now in College shall graduate, the Republic will have completed its first century; and so quick and active are the elements that now determine the fate of nations, it may depend upon you, and your generation alone, whether our institutions shall survive a second century.

Few men can now lead isolated lives. In a country like ours the relations of the State to the citizen are vitally intimate and reciprocal. The permanence and prosperity of the State make the success and prosperity of the citizen possible, while the worthy and honorable success of the citizen strengthens and adorns the State.

Whatever career therefore you may follow, you cannot be indifferent to the fortunes of your country. I propose then, as the theme for this hour, THE FUTURE OF THE REPUBLIC. May we rationally hope that its life and success will be permanent; or has it entered upon a career of brilliant, brief mortality?

When our fathers shaped and fashioned it, and breathed into its beautiful form the inspiration of their great lives, did they utter a vain and empty boast, when they pronounced upon it the loving benediction "Esto Perpetua?"

What do men mean when they predict immortality of anything earthly?

The first Napoleon was one day walking through the galleries of the Louvre, filled with the wonders of art which he had stolen from the conquered capitals of Europe. As he passed the marvelous picture of Peter Martyr, one of the seven masterpieces of the world, he overheard an enthusiastic artist exclaim, "Immortal work!" Turning quickly upon his heel, the Emperor asked, "What is the average life of an oil painting?" "Five hundred years," answered the artist. Immortal! the Corsican scornfully repeated, as he passed on, thinking doubtless of Austerlitz and Marengo. Six years ago, the wonderful picture of Peter Martyr, was dissolved in the flames of a burning church at Venice, and like Austerlitz, is now only a memory and a dream.

When the great lyric poet of Rome, ventured to predict immortality for his works, he could think of no higher human symbol of immortality than the Eternal City and her institutions, crowded with seven centuries of glorious growth, and so Horace declared that his verses would be remembered as long as the high-priest of Apollo and the silent vestal virgin should climb the steps of the capitol. Fifteen centuries ago the sacred fires of Vesta went out, never to be rekindled. For a thousand years, Apollo has had no shrine, no priest, no worshiper on the earth. The steps of the Capitol, and the temples that crowned it, live only in dreams. And

to-day the antiquary digs and disputes among the ruins, and is unable to tell us where on the Capitoline hill the great citadel of Rome stood.\*

There is much in the history of dead empires to sadden and discourage our hope for the permanence of any human institution. But a deeper study reveals the fact that nations have perished, only when their institutions have ceased to be serviceable to the human race. When their faith has become an empty form, and the destruction of the old is indispensable to the growth of the new. Growth is better than permanence, and permanent growth is better than all. Our faith is large in time; and we

"Doubt not through the ages, an increasing purpose runs,  
And the thoughts of men are widened by the process of the suns."

It matters little what may be the forms of national institutions, if the life, freedom and growth of society are secured. To save the life of a nation it is sometimes necessary to discard the old form and make room for the new growth; for

"Old decays but foster new creations;  
Bones and ashes feed the golden corn;  
Fresh elixirs wander every moment,  
Down the veins through which the live part feeds its child, the life unborn."

There are two classes of forces whose action and reaction determine the condition of a nation.—the forces of repression, and expression. The one acts from without; limits, curbs, restrains. The other acts from within; expands, enlarges, propels. Constitutional forms, statutory limitations, conservative customs belong to the first. The free play of individual life, opinion and action belong to the second. If these forces be happily balanced; if there be a wise conservation and correlation of both; a nation may enjoy the double blessing of progress and permanence.

How are these forces acting upon our nation at the present time?

Our success has been so great hitherto, we have passed safely through so many perils which, at the time seemed almost fatal, that we may assume that the Republic will continue to live and prosper unless it shall be assailed by dangers which outnumber and outweigh the elements of its strength. It is idle to boast of what we are, and what we are to be, unless, at the same time, we compare our strength with the magnitude of our dangers.

What then are our dangers; and how can they be conquered.

#### EXTERNAL DANGERS.

In the first place, our great dangers are not from without. Separated from all great rivals by broad seas, and protected from foreign complications, by the wise policy introduced by Washington, and now become traditional—the policy of non-interference—nothing but reckless and gratuitous folly on our part, can lead us into serious peril from abroad. Our Republic is the undisputed master of its geographical position. It is the central figure in what must soon be the grandest of all theatres of national effort. Civilization has always clustered about some sea as the centre and arena of its activity. For many centuries, the Mediterranean was the historic sea, around which were grouped the great nations of classic antiquity. The grander forces of modern history required a larger theatre of operations; and the race turned remorselessly away from the scenes and monuments of its ancient glory. It changed the front of Europe to the westward, and made the Atlantic and its

\*Harc's "Walks in Rome."

shores the scene and centre of the new and grander activities. The Atlantic is still the great historic sea. Even in its sunken wrecks might be read the record of modern nations. On its western shore, our Republic holds the chief place of power.

But there is still a grander sea; and who shall say that the Pacific will not yet become the great historic sea of the future—the vast amphitheatre around which shall sit in majesty and power the two Americas, Asia, Africa and the chief colonies of Europe? In that august assemblage of nations, the United States will be “easily chief,” if she fill worthily the measure of her high destiny—if she do not abdicate the seat which Providence and Nature have assigned her. I repeat it then, our great dangers are not from without. We do not live by the consent of any other nation. We must look within, to find the elements of danger. The first and most obvious of these is territorial expansion, overgrowth; the danger that we shall break in pieces by our own weight. This has been the commonplace of historians and publicists for many centuries; and its truth has found many striking illustrations in the experience of mankind. But we have fair ground for believing that new conditions and new forces have nearly if not wholly removed the ground of this danger. Distance, estrangement, isolation have been overcome by the recent amazing growth in the means of intercommunication. For political and industrial purposes, California and Massachusetts are nearer neighbors to-day, than were Philadelphia and Boston in the days of the Revolution. The people of all our thirty-seven States know more of each other's affairs than the Vermonter knew of his Virginia neighbors fifty years ago. It was distance, isolation, ignorance of separate parts, that broke the cohesive force of the great empires of antiquity. Public affairs are now more public, and private less private than in former ages. The Railroad, the Telegraph and the Press have virtually brought our citizens, with their opinions and industries, face to face; and they live almost in each other's sight. The leading political, social and industrial events of this day, will be reported and discussed at more than two millions of American breakfast tables to-morrow morning. Public opinion is kept in constant exercise and training. It keeps itself constantly in hand—ready to approve, condemn and command. It may be wrong; it may be tyrannical; but it is all-pervading, and constitutes, more than ever before, a strong band of nationality.

Fortunately our greatest line of extension is from east to west, and our pathway along the parallels of latitude are not too broad for safety; for it lies within the zone of national development. The Gulf of Mexico is our special providence on the South. Perhaps it would be more fortunate for us if the northern shore of that Gulf stretched westward to the Pacific. If our territory embraced the Tropics the sun would be our enemy. “The stars in their courses” would fight against us. Now these celestial forces are our friends, and help to make us one. Let us hope that the Republic will be content to maintain this friendly alliance.

Our northern boundary is not yet wholly surveyed. Perhaps our neighbors across the lakes will some day take a hint from Nature, and save themselves and us the discomfort of an artificial boundary. Restrained within our present southern limits, with a population more homogeneous than that of any other great nation,



and with a wonderful power to absorb and assimilate to our own type the European races that come among us, we have but little reason to fear that we shall be broken up by divided interests and internal feuds because of our great territorial extent.

#### THE DANGERS OF UNIVERSAL SUFFRAGE.

After all, territory is but the body of a nation. The people who inhabit its hills and its valleys are its soul, its spirit, its life. In them dwells its hope of immortality. Among them, if anywhere, are to be found its chief elements of destruction.

And this leads me to consider an alleged danger to our institutions, which, if well founded, would be radical and fatal. I refer to the allegation that universal suffrage, as the supreme source of political authority, is a fatal mistake. When I hear this proposition urged, I feel, as most Americans doubtless do, that it is a kind of moral treason to listen to it, and that to entertain it would be political atheism. That the consent of the governed is the only true source of national authority, and is the safest and firmest foundation on which to build a government, is the most fundamental axiom of our political faith. But we must not forget that a majority—perhaps a large majority—of the thinkers, writers and statesmen of christendom declare that our axiom is no axiom; indeed is not true, but is a delusion and a snare—a fatal heresy.

At the risk of offending our American pride, I shall quote a few paragraphs from what is probably the most formidable indictment ever penned against the Democratic principle. It was written by the late Lord Macaulay, a profound student of society and government, and a man who, on most subjects, entertained broad and liberal views. Millions of Americans have read and admired his histories and essays; but only a few thousands have read his brief but remarkable letter of 1857, in which he discusses the future of our government. We are so confident of our position that we seldom care to debate it.

The letter was addressed to the Hon. H. S. Randall, of New York, acknowledging the receipt of a copy of that gentleman's life of Jefferson. I quote a few paragraphs:

LONDON, May 23<sup>rd</sup>, 1857.

DEAR SIR: You are surprised to learn that I have not a high opinion of Mr. Jefferson, and I am surprised at your surprise. I am certain that I never wrote a line, and that I never, in Parliament, in conversation, or even on the hustings—a place where it is the fashion to court the populace—uttered a word indicating the opinion that the supreme authority in a State ought to be entrusted to the majority of citizens told by the head; in other words, to the poorest and most ignorant part of society. I have long been convinced that institutions purely democratic must, sooner or later, destroy liberty or civilization, or both.

In Europe, where the population is dense, the effect of such institutions would be almost instantaneous. What happened lately in France is an example. In 1848 a pure democracy was established there. During a short time there was a strong reason to expect a general spoliation, a national bankruptcy, a new partition of the soil, a maximum of prices, a ruinous load of taxation laid on the rich for the purpose of supporting the poor in idleness. Such a system would, in twenty years, have made France as poor and as barbarous as the France of the Carlovingians. Happily the danger was averted; and now there is a despotism, a silent tribune, an enslaved press. Liberty is gone, but civilization has been saved. I have not the smallest doubt that if we had a purely Democratic government here, the effect would be the same. Either the poor would plunder the rich, and civilization would perish, or order and property would be saved by a strong military government, and liberty would perish.

You may think that your country enjoys an exemption from these evils. I will frankly own to you that I am of a very different opinion. Your fate I believe to be certain, though it is deferred by a physical cause. As long as you have a boundless extent of fertile and unoccupied land, your laboring population will be far more at ease than the laboring population of the old world; and while that is the case the Jeffersonian policy may continue to exist without causing any fatal calamity. But the time will come when New England will be as thickly peopled as

Old England. Wages will be as low, and will fluctuate as much with you as with us. You will have your Manchesters and Birminghams. Hundreds and thousands of artizans will assuredly be sometimes out of work. Then your institutions will be fairly brought to the test. Distress everywhere makes the laborer mutinous and discontented, and inclines him to listen with eagerness to agitators, who tell him that it is a monstrous iniquity that one man should have a million while another cannot get a full meal.

In bad years there is plenty of grumbling here, and sometimes a little rioting. But it matters little, for here the sufferers are not the rulers. The supreme power is in the hands of a class, numerous indeed, but select, of an educated class,—of a class which is, and knows itself to be, deeply interested in the security of property and the maintenance of order. Accordingly, the malcontents are firmly yet gently restrained. The bad time is got over without robbing the wealthy to relieve the indigent. The springs of national prosperity soon begin to flow again; work is plentiful, wages rise, and all is tranquility and cheerfulness. I have seen England three or four times pass through such critical seasons as I have described. Through such seasons the United States will have to pass in the course of the next century, if not of this. How will you pass through them? I heartily wish you a good deliverance. But my reason and my wishes are at war, and I cannot help foreboding the worst. It is quite plain that your government will never be able to restrain a distressed and discontented majority. For with you the majority is the government, and has the rich, who are always a minority, absolutely at its mercy. The day will come when, in the State of New York, a multitude of people, none of whom has had more than half a breakfast, or expects to have more than half a dinner, will choose a Legislature. Is it possible to doubt what sort of Legislature will be chosen? On one side is a statesman preaching patience, respect for vested rights, strict observance of public faith. On the other is a demagogue ranting about the tyranny of capitalists and usurers, and asking why anybody should be permitted to drink champagne and to ride in a carriage while thousands of honest people are in want of necessities? Which of the two candidates is likely to be preferred by a working man who hears his children cry for bread? I seriously apprehend that you will, in some such season of adversity as I have described, do things which will prevent prosperity from returning; that you will act like people in a year of scarcity, devour all the seed corn, and thus make the next year a year not of scarcity, but of absolute famine. There will be, I fear, spoliation. The spoliation will increase distress. The distress will produce fresh spoliation. There is nothing to stay you. Your Constitution is all sail and no anchor. As I said before, when society has entered on this downward progress, either civilization or liberty must perish. Either some Cæsar or Napoleon will seize the reins of government with a strong hand, or your Republic will be as fearfully plundered and laid waste by barbarians in the twentieth century as the Roman empire was in the fifth; with this difference, that the Huns and Vandals who ravaged the Roman empire came from without, and that your Huns and Vandals will have been engendered within your country by your own institutions.

Thinking thus, of course, I cannot reckon Jefferson among the benefactors of mankind.

Certainly this letter contains food for serious thought; and it would be idle to deny that the writer has pointed out what may become serious dangers in our future. But the evils he complains of are by no means confined to democratic governments, nor do they, in the main, grow out of popular suffrage. If they do, England herself has taken a dangerous step since Macaulay wrote. Ten years after the date of this letter she extended the suffrage to 800,000 of her working men, a class hitherto ignored in politics. And still later we have extended it to an ignorant and lately enslaved population of more than four millions. Whether for weal or for woe, enlarged suffrage is the tendency of all modern nations. I venture the declaration that this opinion of Macaulay is vulnerable on several grounds:—

In the first place, it is based upon a belief from which few if any British writers have been able to emancipate themselves, viz: the belief that mankind are born into permanent classes, and that in the main, they must live, work and die in the fixed class or condition in which they were born. It is hardly possible for a man, reared in an aristocracy like that of England to eliminate this conviction from his mind, for the British empire is built upon it. Their theory of national stability is that there must be a permanent class which shall hold in their own hands so much of the wealth, the privilege and the political power of the kingdom, that they can compel the admiration and obedience of all other classes.

At several periods of English history there have been serious encroachments upon this doctrine. But on the whole, British phlegm has held to it sturdily, and still maintains it. The great voiceless class of day laborers have made but little headway against the doctrine. The editor of a leading British magazine, told me a few years ago, that in twenty-five years of observation, he had never known a mere farm laborer in England to rise above his class. Some, he said, had done so in manufactures, some in trade, but in mere farm labor not one. The government of a country, where such a fact is possible, has much to answer for.

We deny the justice or the necessity of keeping ninety-nine of the population in perpetual poverty and obscurity, in order that the hundredth may be rich and powerful enough to hold the ninety-nine in subjection. Where such permanent classes exist the conflict of which Macaulay speaks is inevitable. And why? Not that men are inclined to fight the class above them—but they fight against any artificial barrier which makes it impossible for them to enter that higher class, and become a part of it. We point to the fact that in this country, there are no classes, in the British sense of that word—no impassable barriers of caste. Now that slavery is abolished, we can truly say that through our political society there run no fixed horizontal strata through which none can pass upward. Our society resembles rather the waves of the ocean whose every drop may move freely among its fellows, and may rise toward the light, until it flashes on the crest of the highest wave.

Again, in depicting the dangers of universal suffrage, Macaulay leaves wholly out of the account the great counterbalancing force of universal education. He contemplates a government delivered over to a vast multitude of ignorant, vicious men, who have learned no self-control, who have never comprehended the national life, and who will wield the ballot solely for personal and selfish ends. If this were indeed the necessary condition of Democratic communities, it would be difficult, perhaps impossible, to escape the logic of Macaulay's letter. And here is a real peril—the danger that we shall rely upon the mere extent of the suffrage as a national safeguard. We cannot safely, even for a moment, lose sight of the *quality* of the suffrage, which is more important than its quantity.

We are apt to be deluded into false security by political catch-words, devised to flatter rather than instruct. We have happily escaped the dogma of the divine right of kings. Let us not fall into the equally pernicious error that multitude is divine, because it is a multitude. The words of our great publicist, the late Dr. Lieber whose faith in Republican liberty was undoubted, should never be forgotten. In discussing the doctrine of "*Vox populi, vox Dei*," he said: "Woe to the country in which political hypocrisy first calls the people almighty, then teaches that the voice of the people is divine, then pretends to take a mere clamor for the true voice of the people, and, lastly, gets up the desired clamor."\*

This sentence ought to be read in every political caucus. It would make an interesting and significant preamble to most of our political platforms. It is only when the people speak truth and justice that their voice can be called "the voice of God." Our faith in the Democratic principle rests upon the belief that intelligent men will see that their highest political good is in liberty,

regulated by just and equal laws ; and that, in the distribution of political power, it is safe to follow the maxim, " Each for all, and all for each." We confront the dangers of suffrage by the blessings of universal education. We believe that the strength of the State is the aggregate strength of its individual citizens : and that the suffrage is the link that binds, in a bond of mutual interest and responsibility, the fortunes of the citizen to the fortunes of the State. Hence, as popular suffrage is the broadest base, so, when coupled with intelligence and virtue, it becomes the strongest—the most enduring base on which to build the superstructure of government.

#### INDUSTRIAL CORPORATIONS.—THE RAILWAY.

There is another class of dangers, unlike any we have yet considered—dangers engendered by civilization itself, and made formidable by the very forces which man is employing as the most effective means of bettering his condition and advancing civilization. I select the Railway problem as an example of this class. I can do but little more than to state the question, and call your attention to its daily increasing magnitude.

We are so involved in the events and movements of society, that we do not stop to realize—what is undeniably true—that, during the last forty years, all modern societies have entered upon a period of change, more marked, more pervading, more radical than any that has occurred during the last three hundred years. In saying this, I do not forget our own political and military history, nor the French Revolution of 1793. The changes now taking place have been wrought and are being wrought, mainly, almost wholly, by a single mechanical contrivance, the Steam-Locomotive. Imagine, if you can, what would happen, if to-morrow morning, the railway locomotive, and its corollary, the telegraph, were blotted from the earth. At first thought, it would seem impossible to get on at all with the feeble substitutes we should be compelled to adopt in place of these great forces. To what humble proportions mankind would be compelled to scale down the great enterprises they are now pushing forward with such ease ! But were this calamity to happen, we should simply be placed where we were forty-three years ago.

There are many persons in this audience who well remember the day when Andrew Jackson, after four weeks of toilsome travel from his home in Tennessee, reached Washington and took his first oath of office as President of the United States. On that day the Railway locomotive did not exist. During that year Henry Clay was struggling to make his name immortal by linking it with the then vast project of building a national road—a turnpike—from the national capital to the banks of the Mississippi.

In the autumn of that very year, George Stephenson ran his first experimental locomotive, the " Rocket " from Manchester to Liverpool and back. The rumble of its wheels, redoubled a million times, is echoing to-day on every continent.

" In 1870, there were about 125,000 miles of railroad on the two hemispheres, constructed at a cost of little less than \$100,000 per mile, and representing nearly twelve thousand million dollars of invested capital.\*

A Parliamentary commission found that during the year 1866,

\* C. F. Adams, Jr.

the railway cars of Great Britain carried an average of 850,000 passengers per day; and during that year, the work done by their 8,125 locomotives would have required for its performance three and a half millions of horses and nearly two millions of men.

What have our people done for the locomotive, and what has it done for us? To the United States with its vast territorial areas, the railroad was a vital necessity.

Talleyrand once said to the first Napoleon that "The United States was a giant without bones." Since that time our gristle has been rapidly hardening. Sixty-seven thousand miles of iron track is a tolerable skeleton, even for a giant. When this new power appeared, our people everywhere felt the necessity of setting it to work; and individuals, cities, States and the Nation lavished their resources, without stint, to make a pathway for it. Fortunes were sunk under almost every mile of our earlier roads, in the effort to capture and utilize this new power. If the State did not head the subscription for a new road, it usually came to the rescue before the work was completed.

The lands given by the States and by the national government to aid in the construction of railroads, reach an aggregate of nearly 250,000,000 acres—a territory equal to nine times the area of Ohio. With these vast resources we have made paths for the steam giant; and to-day, nearly a quarter of a million of our business and working men are in his immediate service. Such a power naturally attracts to its enterprises the brightest and strongest intellects. It would be difficult to find, in any other profession, so large a proportion of men possessed of a high order of business ability, as those who construct, manage and operate our railroads.

The American people have done much for the locomotive; and it has done much for them. We have already seen that it has greatly reduced, if not wholly destroyed the danger that the government will fall to pieces by its own weight. The railroad has not only brought our people and their industries together, but it has carried civilization into the wilderness, has built up States and Territories, which but for its power would have remained deserts for a century to come. "Abroad and at home," as Mr. Adams tersely declares, "it has equally nationalized people, and cosmopolized nations." It has played a most important part in the recent movement for the unification and preservation of nations.

It enabled us to do what the old military science had pronounced impossible, to conquer a revolted population of eleven millions, occupying a territory one-fifth as large as the continent of Europe. In Mr. Adams' able essay on the railway system, he has pointed out some of the remarkable achievements of the railroad, in our recent history. For example a single railroad track enabled Sherman to maintain 80,000 fighting men, three hundred miles beyond his base of supplies. Another line, in a space of seven days brought a reinforcement of two fully equipped army corps around a circuit of thirteen hundred miles, to strengthen an army at a threatened point. He calls attention to the still more striking fact that for ten years past, with fifteen hundred millions of our indebtedness abroad, an enormous debt at home, unparalleled public expenditures, and a depreciated paper currency—in defiance of all past experience, we have been steadily conquering

our difficulties, have escaped the predicted collapse, and are promptly meeting our engagements; because, through energetic railroad development, the country has been producing real wealth, as no country has produced it before. Finally, he sums up the case by declaring that the locomotive "has dragged the country through its difficulties in spite of itself."\*

It is unnecessary to particularize further; for whether there be peace or war, society cannot exist in its present order without the railroad.

I have noticed briefly what society has done for the locomotive, and what it has done for society. Let us now inquire what it is likely to do to society.

The national constitution and the constitutions of most of the States were formed before the locomotive existed; and of course no special provisions were made for its control. Are our institutions strong enough to stand the shock and strain of this new force?

A government made for the kingdom of Lilliput might fail to handle the forces of Brobdignag.†

It cannot have escaped your attention, that all the forces of society, new and old, are now acting with unusual vigor in all departments of life. They crowd your college course with new studies each year. They challenge you with new problems. They assail you with new and imperious demands.

Your culture must be more thorough, and the scope and amount of your knowledge far greater to-day, than the graduate of forty years ago required to keep abreast of the age.

Much more knowledge and culture are now required for every profession.

A recent English writer, of great thoughtfulness and power, has said that "the demands of our civilization are too great for the stamina and endurance of our people: that our race is over-weighted, and appears likely to be drudged into degeneracy by demands that exceed its powers."‡

But interesting and important as that reflection is, in relation to individual life, the rapid development of our material interests raises another question even more momentous. May it not be true, that the new forces are also over-weighting the strength of our social and political institutions?

The editor of "The Nation" declares the simple truth when in a recent issue he says:

The locomotive is coming in contact with the framework of our institutions. In this country of simple government, the most powerful centralizing force which civilization has yet produced, must, within the next score years, assume its relations to that political machinery which is to control and regulate it.

The railway problem would have been much easier of solution, if its difficulties had been understood in the beginning. But we have waited until the child has become a giant. We attempted to mount a columbiad on a carriage whose strength was only sufficient to stand the recoil of a twelve pound shot.

The danger to be apprehended does not arise from the railroad, merely, but from its combination with a piece of legal machinery known as the private corporation.

\* Chapters of Erie, &c., pp. 352-3.

† Chapters of Erie, &c., pp. 352-3.

‡ Galton's Hereditary Genius, p. 246.

In discussing this theme we must not make an indiscriminate attack upon corporations. The corporation, limited to its proper uses, is one of the most valuable of the many useful creations of law. One class of corporations has played a most important and conspicuous part in securing the liberties of mankind. It was the municipal corporations—the free cities and chartered towns—that preserved and developed the spirit of freedom during the darkness of the middle ages, and powerfully aided in the overthrow of the feudal system. The charters of London and of the lesser cities and towns of England made the most effective resistance to the tyranny of Charles the Second, and the judicial savagery of Jeffries. The spirit of the free town and the chartered colony taught our own fathers how to win their independence. The New England township was the political unit which formed the basis of most of our States.

This class of corporations have been most useful, and almost always safe, because they have been kept constantly within the control of the community for whose benefit they were created.\* The State has never surrendered the power of amending their charters.

The early English law writers classified all corporations into public and private; calling those of a municipal character public or *quasi* public, and all others, private corporations. The latter class, at that time, and indeed long afterward, consisted chiefly of such organizations as hospitals, colleges, and other charities supported by private benefactions. The ownership of the property, not the object of the corporation, was made the basis of classification. If the property was owned wholly by the State or the municipality, the corporation was public; if owned wholly or partly by individual citizens, the corporation was private. From this distinction, have arisen the legal difficulties attending any attempt, on the part of the community, to control the great business corporations.

Under the name of private corporations, organizations have grown up, not for the perpetuation of great charity, like a college or hospital, not to enable a company of citizens more conveniently to carry on a private industry; but a class of corporations unknown to the early law writers has arisen; and to them have been committed the vast powers of the railroad and the telegraph, the great instruments by which modern communities live, move and have their being.

Since the dawn of history, the great thoroughfares have belonged to the people—have been known as the king's highways or the public highways, and have been open to the free use of all, on payment of a small, uniform tax or toll to keep them in repair. But now the most perfect, and by far the most important roads known to mankind, are owned and managed as private property, by a comparatively small number of private citizens.

In all its uses, the railroad is the most public of all our roads; and in all the objects to which its work relates, the railway corporation is as public as any organization can be. But, in the start, it was labeled a private corporation; and, so far as its legal status is concerned, it is now grouped with eleemosynary institutions

\*The recent phases of municipal government in our large cities should perhaps lead me to modify this statement.

and private charities, and enjoys similar immunities and exemptions. It remains to be seen how long the community will suffer itself to be the victim of an abstract definition.

It will be readily conceded that a corporation is strictly and really private, when it is authorized to carry on such a business as a private citizen may carry on. But when the State has delegated to a corporation the sovereign right of eminent domain, the right to take from the private citizen, without his consent, a portion of his real estate, to build its structure across farm, garden and lawn, into and through, over or under the blocks, squares, streets, churches and dwellings of incorporated cities and towns, across navigable rivers, and over and along public highways, it requires a stretch of the common imagination, and much refinement and subtlety of the law to maintain the old fiction that such an organization is not a public corporation.

#### THE DARTMOUTH COLLEGE CASE, AND THE RAILWAY PROBLEM.

In the famous Dartmouth College Case of 1819, it was decided, by the Supreme Court of the United States, that the charter of Dartmouth College is a contract between the State and the Corporation, which the legislature cannot alter without the consent of the corporation; and that any such alteration is void, being in conflict with that clause of the Constitution of the United States which forbids a State to make any law impairing the obligation of contracts.

This decision has stood for more than half a century as a monument of judicial learning, and the great safeguard of vested rights. But Chief Justice Marshall pronounced this opinion ten years before the steam railway was born, and it is clear he did not contemplate the class of corporations that have since come into being. But, year by year, the doctrine of that case has been extended to the whole class of private corporations, including railroad and telegraph companies. But few of the States, in their early charters to railroads, reserved any effectual control of the operations of the corporations they created. In many instances, like that of the Illinois Central charter, the right to amend was not reserved. In most States each legislature has narrowed and abridged the powers of its successors, and enlarged the powers of the corporations; and these by the strong grip of the law, and in the name of private property and vested rights, hold fast all they have received. By these means not only the corporations, but the vast railroad and telegraph systems, have virtually passed from the control of the State. It is painfully evident from the experience of the last few years, that the efforts of the States to regulate their railroads, have amounted to but little more than feeble annoyance. In many cases the corporations have treated such efforts as impertinent intermeddling, and have brushed away legislative restrictions as easily as Gulliver broke the cords with which the Lilliputians attempted to bind him.

In these contests the corporations have become conscious of their strength, and have entered upon the work of controlling the States. Already they have captured several of the oldest and strongest of them; and these discrowned sovereigns now follow in chains the triumphal chariot of their conquerors. And this does not imply that merely the officers and representatives of States have been subjected to the railways, but that the corpora-



tions have grasped the sources and fountains of power, and control the choice of both officers and representatives.

The private corporation has another great advantage over the municipal corporation. The jurisdiction of the latter is confined to its own territory; but by the recent constructions and devices of the law, a private corporation, though it has no soul, no conscience, and can commit no crime, yet it is a citizen of the State that creates it, and can make and execute contracts with individuals and corporations of other States.

Thus, the way has been opened to those vast consolidations which have placed the control of the whole system in the hands of a few, and have developed the Charlemagnes and the Cæsars of our internal commerce.

In addition to these external conquests, the great managers have in many cases grasped the private property of the corporations themselves; and the stocks which represent the investment have become mere counters in the great gambling houses of Wall street, where the daily ebb and flow of the stock market sweeps and tosses the business and trade of the Continent.

If these corporations were in reality private corporations, transacting only private business, the community might perhaps stand by in wonder and amazement at their achievements; but a great and vital public interest is involved in the system, an interest which affects the social and political organization in a thousand ways. Prominent among these is the public necessity for means of transportation.

Mr. Adams says that the estimated average amount transported by rail, had risen from \$85 for each inhabitant in 1860, to \$300 in 1870, and that the public are now paying to railroads for travel and transportation \$450,000,000 per annum, an average of \$12 per head for the whole population.\*

Two-thirds of this sum, he says are paid for the actual work of transportation, and the remaining third "for the use of the capital and the risk involved in the business."

This latter sum is the tax on transportation, and is as really a *tax* as though it were paid on the grand duplicate of the State; "in other words" quoting from Mr. Adams, "certain private individuals, responsible to no authority, and subject to no supervision, but looking solely to their own interests, or to those of their immediate constituency, yearly levy upon the American people a tax, as a suitable remuneration of their private capital, equal to one-half of the expenses of the United States Government, including interest on the national debt."

I do not say that this tax is excessive; perhaps it is not; but its rate is determined, and the amount levied and collected, not by the authority of the State, but by private parties whose chief concern is to serve their own interests.

We have seen that the transportation tax is the amount paid to the companies for their investment. How much they shall invest, where, and under what limitations it shall be invested, has been wholly left the companies themselves; but, whether they have invested their capital wisely or unwisely, however much the business may be overdone, the investors must be paid for the use of their capital, and that payment is made by the community.

\*The amount for the year 1872, is set down at \$472,941,085. Poor's R.R. Manual for 1873, introd. p. 26

In most of the States, railroads may be built in unlimited numbers wherever five or ten men, who incorporate themselves under the general law, may choose to build them.

This has probably been allowed in the belief that free competition in building and operating roads would produce economy in the management and cheapness in transportation.

But this expectation has utterly failed. All railroad experience has verified the truth of George Stephenson's aphorism, that "when combination is possible, competition is impossible." Great Britain has gone much farther into the study of this question than we have, and the result of her latest study is thus expressed in the *London Quarterly Review*, of April last :

By the common consent of all practical men, competition, the ordinary safeguard of the public in matters of trade, has ceased to offer the slightest protection (except in a few unimportant cases of rival sea traffic) against railway monopolies.

In spite of the efforts of Parliament and parliamentary commissions, combinations and amalgamation have proceeded, at the instance of the companies, without check and almost without regulation. United systems now exist constituting by their magnitude and by their exclusive possession of whole districts, monopolies to which the earlier authorities would have been strongly opposed. Nor is there any reason to suppose that the progress of combination has ceased, or that it will cease until Great Britain is divided between a small number of great companies.

The article concludes with this striking paragraph :

We have tried the *laissez faire* policy and it has failed ; we have tried a meddlesome policy and it has failed also. We have now to meet the coming day, when all the railways, having completed their several systems, may, and probably in their own interests will, combine together to take advantage of the public. In the face of this contingency we have simply to make our choice between two alternatives,—either to let the State manage the railways, or let the railways manage the State.

It is easy to see that we are repeating the experience of Great Britain on a vast scale. We have doubled our miles of railway in the last eight years. In the last two years we have built and put into operation 14,206 miles of road,—more than a quarter of all we had in January, 1871.

The cost of constructing the roads we are now operating was thirty-one hundred and sixty millions of dollars ; and, during the year 1872, there were transported by rail more than two hundred million tons of freight.\* The process of consolidation of our leading lines of road has been even more rapid than that of construction ; and whatever dangers we may expect from the system are rapidly culminating to the point of full development. In antagonism to these and to similar combinations of capitalists are the combinations of laborers in trades unions and labor leagues. The indications are abundant that we shall soon see, set in full array, a conflict between capital and labor,—a conflict between forces that ought not to be enemies ; for labor is the creator of capital, which is only another name for accumulated labor. It is the duty of statesmanship to study the relation which the government sustains, and ought to sustain, to this struggle, and to provide that it shall not be the partisan supporter of either combatant, but the just protector of both. The right to labor has not been sufficiently emphasized as one of the rights of man. The right to enjoy the fruits of labor has been better secured.

In view of the facts already set forth, the question returns :—What is likely to be the effect of railway and other similar combinations upon our community and our political institutions ? Is it true, as asserted by the British writer quoted above, that the State must soon re-capture and control the railroads, or be cap-

tured and subjugated by them? Or do the phenomena we are witnessing indicate that general breaking up of the social and political order of modern nations, so confidently predicted by a class of philosophers whose opinions have hitherto made but little impression on the public mind? That you may not neglect this broader view of the question, I will quote a few paragraphs written by Charles Fourier, sixty-six years ago,—nearly a quarter of a century before the fire of the first steam-locomotive was lighted.

After tracing the course of civilization through its several phases of development, and declaring that it was then (1807) past the middle of its third phase, and moving towards its own destruction, he said :

Civilization is tending towards the fourth phase, by the influence of joint stock corporations, which, under the cover of certain legal privileges, dictate terms and conditions to labor, and arbitrarily exclude from it whomever they please. These corporations contain the germ of a vast feudal coalition, which is destined to invade the whole industrial and financial system, and give birth to a Commercial Feudalism. \* \* \* These corporations will become dangerous and lead to new outbreaks and convulsions only by being extended to the whole commercial and industrial system. The event is not far distant, and will be brought about all the more easily from the fact that it is not apprehended. \* \* \* Extremes meet; and the greater the extent to which anarchical competition is carried, the nearer is the approach to the reign of *universal monopoly*, which is the opposite excess. It is the fate of civilization to be always balancing between extremes. Circumstances are tending toward the organization of the commercial classes into federal companies, or affiliated monopolies, which, operating in conjunction with the great landed interest, will reduce the middle and laboring classes to a state of commercial vassalage, and by the influence of combined action, will become master of the productive industry of entire nations. The small operators will be forced indirectly to dispose of their products according to the wishes of these monopolists; they will become mere agents for the coalition. We shall thus see the reappearance of Feudalism in an inverse order, founded on mercantile leagues, and answering to the Baronial leagues of the middle ages. Everything is concurring to produce this result. \* \* \* We are marching with rapid strides towards a Commercial Feudalism, and to the fourth phase of civilization.\*

These declarations read something like prophecy, so far as they relate to the effects of combined corporations. New mechanical forces have hastened the development of corporations since Fourier wrote. We need not take alarm at his prophecy of the speedy decay of civilization; but the analogy between the industrial condition of society at the present time, and the Feudalism of the middle ages, is both striking and instructive.

In the darkness and chaos of that period, the Feudal System was the first important step towards the organization of modern nations. Powerful chiefs and barons intrenched themselves in castles, and, in return for submission and service, gave to their vassals rude protection and ruder laws. But as the Feudal chiefs grew in power and wealth, they became the oppressors of their people, taxed and robbed them at will, and finally, in their arrogance, defied the kings and emperors of the medieval states. From their castles, planted on the great thoroughfares, they practiced the most capricious extortions on commerce and travel, and thus gave to modern language the phrase, "levy black-mail"†

The consolidation of our great industrial and commercial companies, the power they wield and the relations they sustain to the State and to the industry of the people, do not fall far short of Fourier's definition of Commercial or Industrial Feudalism. The

\* *Theorie des Quatre Mouvements et des Destinees Generales*, Paris, 1808—Eng. Tr., (New York 1857), pp. 198 and 207.

† "A very large portion of the nobility lived by robbery. Their castles, as the ruins still bear witness, were erected upon inaccessible hills, and in defiles that commanded the road. An Archbishop of Cologne having built a fortress of this kind, the governor inquired how he was to maintain himself, no revenue having been assigned for that purpose; the prelate only desired him to remark that the castle was situated near the junction of four roads."—Hallam's *Middle Ages*, vol. 2, p. 94.

modern barons, more powerful than their military prototypes, own our greatest highways, and levy tribute at will upon all our vast industries. And, as the old Feudalism was finally controlled and subordinated, only by the combined efforts of the kings and the people of the free cities and towns, so our modern Feudalism can be subordinated to the public good, only by the great body of the people, acting through their governments by wise and just laws.

My theme does not include, nor will this occasion permit, the discussion of methods by which this great work of adjustment may be accomplished. But I refuse to believe that the genius and energy that have developed these new and tremendous forces, will fail to make them not the masters but the faithful servants of society. It will be a disgrace to our age and to us if we do not discover some method by which the public functions of these organizations may be brought into full subordination to the public, and that too without violence, and without unjust interference with the rights of private individuals. It will be unworthy of our age and of us, if we make the discussion of this subject a mere warfare against men. For in these great industrial enterprises, have been, and still are engaged some of the noblest and worthiest men of our time. It is the system—its tendencies and its dangers—which society itself has produced, that we are now to confront. And these industries must not be crippled, but promoted. The evils complained of are mainly of our own making. States and communities have willingly and thoughtlessly conferred these great powers upon railways, and they must seek to rectify their own errors without injury to the industries they have encouraged.

Already methods are being suggested. Massachusetts is discussing the proposal to purchase and operate a portion of her railroad system, and thus bring the rest into competition with the State, as the representative of the people. It is claimed that the success of this plan has been proved by the experience of Belgium.

Another proposition is that the State purchase the roads and open them, like other highways, to the free use of the public, subject to such regulations and toll as the safety of transportation and the maintenance of the system may require. This, it is claimed, would remove the stocks and bonds from the gambling operations of the markets, and place the levying of the transportation tax in the hands of the State, and under the control of those who pay.

Others, again, insist that the system has overgrown the limits and the powers of the separate States, and must be taken in hand by the national government, under that provision of the national constitution which empowers Congress "to regulate commerce among the several States." When it is objected that this would be a great and dangerous step towards political centralization—which many think has already been pushed too far—it is responded that as the railway is the greatest centralizing force of modern times, nothing but a kindred force can control it; and it is better to rule it than to be ruled by it. Other solutions have been proposed; but these are sufficient to show how strongly the current of public thought is setting towards the subject. Indications are not wanting that the discussion will be attended by passion, and by a full exhibition of that low, political cunning which plays with the passions and prejudices of men, and measures success by results, and not by the character of the means employed. I have

